

REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 3, 4, 14, 15, and 26 have been cancelled without prejudice or disclaimer, and claims 1, 6, 8, 9, 12, 17, 19, 20, and 23 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 6-9, 11, 12, 17-20, 22-25 and 28-37 are pending and under consideration. Reconsideration is requested.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicants request entry of this Rule 116 Response because:

- (a) as set forth in greater detail below, in the section regarding the Request to Withdraw Finality, Applicants respectfully submit that the outstanding Office Action is deficient;
- (b) the amendments were not earlier presented because Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed; and
- (c) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for purposes of appeal.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REQUEST TO WITHDRAW FINALITY:

Applicants respectfully note that claim 27 was cancelled in the Amendment filed April 24, 2006. Also, Applicants respectfully submit that claims 34 and 35 cannot properly be rejected under §103 using only Kim (U.S. Publication No. 2002/0136132 – hereinafter Kim '132), since claim 33, from which claims 34 and 35 ultimately depend, was rejected under §103 using both Kim '132 and Kim et al. (U.S. Patent No. 6,337,841 – hereinafter Kim '841).

Additionally, while claim 25 is not listed as being rejected, the rejection of claim 25 is discussed in both the §102 rejection using Kim '132 and the §102 rejection using (U.S.

Publication No. 2001/0043522– hereinafter Park). Further, while claim 31 is listed as being rejected in the §103 rejection using Kim '132, such a rejection is not specifically enumerated or discussed. And while claim 31 is not listed as being rejected using any other art, a rejection of claim 31 is discussed in the §103 rejection using Park and Kim '841.

Thus, Applicants respectfully submit that the outstanding Office Action is deficient. Accordingly, Applicants respectfully request that the Finality of the outstanding Office Action be withdrawn. Further, Applicants respectfully request that this amendment be entered and the claims reconsidered.

REJECTION UNDER 35 U.S.C. §112:

In the Office Action, at page 2, the Examiner rejected claim 3 under 35 U.S.C. §112, second paragraph, for the reasons set forth therein. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Though claim 3 has been cancelled without prejudice or disclaimer, the subject matter of claim 3 has been wholly incorporated into independent claim 1.

Applicants respectfully submit that basis for this rejection is unclear, since claim 3 does not recite “the collimator lens.” Instead, while line 3 of claim 3 (which is now line 8 of claim 1) recites “the collimating lens,” line 2 of claim 3(which is now line 7 of claim 1) recites its antecedent basis, namely, “a collimating lens.”

Accordingly Applicants respectfully submit that the rejection is overcome.

REJECTIONS UNDER 35 U.S.C. §§102 and 103:

In the Office Action, at page 2, the Examiner rejected claims 1, 3, 6, 9, 11, 12, 14, 17, 20, 22, 23, and 24 under 35 U.S.C. §102(e) as being anticipated by Kim (U.S. Publication No. 2002/0136132 – hereinafter Kim '132). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 2, the Examiner rejected claims 1, 3, 6, 7, 8, 9, 11, 12, 14, 17, 18, 19, 20, 22, 23, 24 and 27 under 35 U.S.C. §102(b) as being anticipated by Park (U.S. Publication No. 2001/0043522– hereinafter Park). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 5, the Examiner rejected claims 4, 15, and 26 under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Kojima et al. (U.S. Patent No. 6,084,847 – hereinafter Kojima). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 5, the Examiner rejected claims 7, 8, 18, 19, 29, 30, 31, 32, 34, and 35 under 35 U.S.C. §103(a) as being unpatentable over Kim '132. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 6, the Examiner rejected claims 28, 33, 36 and 37 under 35 U.S.C. §103(a) as being unpatentable over Kim '132 in view of Kim et al. (U.S. Patent No. 6,337,841 – hereinafter Kim '841). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 9, the Examiner rejected claims 4, 15 and 26 under 35 U.S.C. §103(a) as being unpatentable over Park in view of Kojima. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 10, the Examiner rejected claim 29 under 35 U.S.C. §103(a) as being unpatentable over Park. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 10, the Examiner rejected claims 28, 30, 32, 33, 34, 36 and 37 under 35 U.S.C. §103(a) as being unpatentable over Park in view of Kim '841. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Claims 3, 4, 14, 15, and 26 have been cancelled without prejudice or disclaimer.

Applicants respectfully submit that modified subject matter of claims 4, 15, and 26 have been incorporated into independent claims 1, 12, and 23, respectively.

Amended, independent claim 1 recites: "...wherein the collimating lens has a focal length within a range from 0 to less than 11 mm."

Amended, independent claim 12 recites: "...wherein the collimating lens has a focal length within a range from 0 to less than 11 mm."

And amended, independent claim 23 recites: "...wherein the collimating lens has a focal length within a range from 0 to less than 11 mm."

Kim '132 discloses an optical pickup having first and second light sources 102 and 103. Light passes through a holographic optical element 105 that is either moved along an optical axis or rotated about the optical axis to control balance of the photodetector 145 with respect to the second light source 103. (See Kim '132, at FIG. 3, and paragraphs 22-26).

Park discloses a optical pickup in which a diffraction grating 12 selectively splits each of first and second laser beams emitted from first and second laser diodes 11a and 11b. (See Park, at FIG. 2 and paragraph 28). The diffraction grating is selectively movable along the optical axis to allow the light from the second laser diode to be incident on the proper location of photodetector 18. (See Park, at FIG. 2 and paragraph 33).

And col. 10, lines 35-37 of Kojima discloses "[t]he collimator lens 14 has a focal length within a range from 11 to 18 mm and a numerical aperture within a range from 0.11 to 0.14."

Applicants respectfully submit that none of the references, either alone or in combination, disclose or suggest every element of the claims, arranged as required by the claims.

Additionally, Applicants respectfully submit that the Examiner has provided no basis to assert (with respect to the §103 rejections using only Kim '132) that the arrangement of the collimating lens and the beam shaping device with respect to the beam splitter is an obvious rearrangement of elements that does not change the function or scope of the invention, and that it would be obvious for one of ordinary skill in the art to thusly rearrange the elements. Similarly, the Examiner provides no basis to rearrange the cited art with respect to the rejections of claim 36 and 37. And with respect to the §103 rejection of claim 29 using Park, the Examiner also provides no basis to rearrange the cited art.

Accordingly, Applicants respectfully submit that independent claims 1, 12, and 23 patentably distinguish over the cited art and should be allowable for at least the above-mentioned reasons. Further, Applicants respectfully submit that claims 6-9, 11, 17-20, 22, 24, 25, and 28-37, which variously depend from independent claims 1, 12, or 23, should be allowable for at least the same reasons as claims 1, 12, and 23, as well as for the additional features recited therein.

CONCLUSION:

In accordance with the foregoing, Applicants respectfully submit that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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